

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**Criminal Action No. 5:13-CR-17
(Bailey)**

DUANE McATEE,

Defendant.

ORDER

On July 2, 2013, the parties in the above-styled criminal case appeared before the Court for a Pretrial Conference. The Government was present by Assistant United States Attorney Paul T. Camilletti. Defendant Duane McAtee was present in person and is proceeding *pro se*.

The Court addressed the Report and Recommendation by Magistrate Judge James E. Seibert [**Doc. 29**], which the Court **ADOPTED**. The defendant requested that the Court consider his Affidavit [Doc. 41], filed on July 2, 2013. The Court did so, and found that it did not affect the Court's ruling on the Report and Recommendation.

The Court also addressed the Government's Motion to Quash [**Doc. 40**] the oral depositions and depositions duces tecum, which it **GRANTED**. The defendant objected to the Court's oral order and claimed that the instant matter is a civil case. The Court informed the defendant that the case is not a civil matter.

The Court next stated that the case will be tried without a jury. The defendant

objected on the grounds that the order violates his Sixth Amendment right to a trial by jury. The Court explained that because it is a petty offense, and the Court is limiting itself to six months imprisonment, there is no right to a jury trial.

Next, the Court reviewed the witness and exhibit lists with the parties. While discussing the witness list, the Government informed the Court that one of its witnesses will be out of the district on the date of the trial and would be unable to testify. The Government hand delivered its trial exhibits to the defendant. The Government also turned over **Jencks** disclosure to the defendant.

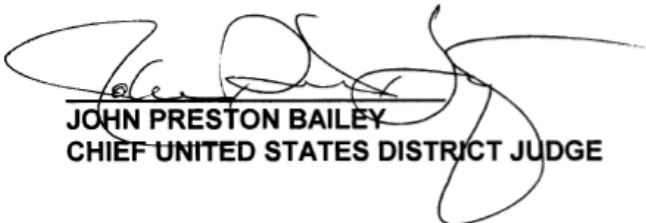
The Court inquired as to whether there were any stipulations or agreements that have been arrived at by the parties. The parties answered in the negative.

There being no further business, the Court adjourned the matter.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein and a copy to the *pro se* defendant.

DATED: July 3, 2013.



JOHN PRESTON BAILEY
CHIEF UNITED STATES DISTRICT JUDGE